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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/586,292	06/02/2000	Robert P. Schoppman	2000-0071	6377

7590

07/25/2003

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EXAMINER

AHMAD, NASSER

ART UNIT

PAPER NUMBER

1772

DATE MAILED: 07/25/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

AS-9

Office Action Summary

Application No.
09/586,292

Applicant(s)
Schoppman

Examiner
Nasser Ahmad

Art Unit
1772



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on May 5, 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13 and 15-19 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13 and 15-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
- ☐ Interview Summary (PTO-413) Paper No(s). _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other:

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1. Claims 13 and 15-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Simons in view of Cole for reasons of record in Paper No. 7 in paragraph -3, mailed on January 30, 2003.

2. Applicant's arguments filed May 5, 2003 have been fully considered but they are not persuasive. Applicant argues that the prior art of record fails to teach that a longitudinal length of the foam member is ^{greater} ~~quarter~~ than its width... "for enabling the flexible foam member to be bent about one of the first and second edges." This is not deemed to be persuasive because the tape of Simons, as shown in Fig. 6, has one removable protective strip (50) being larger than the other protective strip (70). As for the foam member itself, its longitudinal length is greater than its width as shown in Figures 2 and 5. Regarding the above phrase in quotation, "for enabling..second edges", said phrase is directed to an intended use of the product and hence, not given any patentable weight because an intended use phase is not deemed to be positive limitation.

Regarding applicant's argument about claim 19, the explanation provided above applies a fortiori to the one protective strip having a width greater than the other and, in turn, would provide for a continuous overlapping tab. With regard to the "foam member being fashionable ...by cutting..into pigments", said phrase is directed to an intended use of the product and is not a positive limitation for patentable weight. Further, applicant has failed to show that Simons tape apparatus would not provide for tab with each segment when the tape is cut into segments.

Thus, in the absence of any evidence to the contrary, it remains the Examiner's position that the instant claimed invention would have been obvious over the prior art of record discussed above.

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

4. Any inquiry concerning this communication from the examiner should be directed to Nasser Ahmad whose telephone number is (703) 308-4424. The examiner can generally be reached on Monday-Thursday from 7:30 a.m. to 5 p.m. and on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on (703) 308-4251. The fax phone numbers for the organization where this application is assigned are (703) 872-9310 for regular communications and (703) 305-7115 for After Final communications.

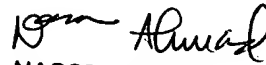
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Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is (703) 308-0661.

N. Ahmad/dh
July 9, 2003


NASSER AHMAD
PRIMARY EXAMINER